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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,084	12/30/2003	Jeffrey A. Tilton	25352A	7972
22889	7590	05/12/2006	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			TORRES VELAZQUEZ, NORCA LIZ	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 05/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,084

Applicant(s)

TILTON ET AL

Examiner

Norca L. Torres-Velazquez

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 22-36 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-15 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 8 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's arguments, see remarks of amendment, filed 4/24/06, with respect to the rejection(s) of claim(s) 1-21 and 37 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of AHRWEILER (US 5,456,872).

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-7, 9-10, 14 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by AHRWEILER (US 5,456,872).

AHRWEILER provides a method for producing a more or less inherently rigid laminate material for use as a surface covering or the like, by reusing plastic trimmings. A waste material having textile fibers that are plastically moldable under the effect of heat is first ground up. A layer having a predetermined thickness is formed from the ground-up waste material. (Col. 1, lines 39-46) The reference defines "inherently rigid laminate material" as to any surface material having a generally specified uniform (though not necessarily) layer thickness. (Col. 1, lines 62-65) The reference teaches that it is advantageous to have up to 100% plastic composition in the waste material used. The reference teaches the use of polyamides, polyolefins, polyvinyl and polyacryl resins. (Col. 2, lines 9-13; 22-25) Further, describes "inherent rigidity" to mean that the material has a certain flexural stiffness, and thus a certain

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form-retaining capability, as well as certain spring-elastic properties and teaches that the material may be used, for example, as wall covering. (Col. 2, lines 40-48)

It is the Examiner's interpretation that the plastic trimmings of the reference equate to the presently claimed polymeric fibrous pieces and that the laminate material equates to the claimed blanket.

***Claim Rejections - 35 USC § 102/103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-13, 15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over AHRWEILER (US 5,456,872).

Although AHRWEILER does not explicitly teach the claimed wet compression, dry compression or the dry wet recovery properties claimed herein, it is reasonable to presume that these properties are inherent to the material of AHRWEILER. Support for said presumption is found in the use of like materials (i.e. similar polymeric fibrous material that is thermally bonded together). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed properties of wet compression, dry compression or the dry wet recovery would obviously have been present one the AHRWEILER product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102. With regards to claim 15, it is the Examiner's position that AHRWEILER discloses the claimed invention except for the secondary layer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to bond a

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second polymer blanket to the structure, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

***Claim Rejections - 35 USC § 103***

6. Claims 2-3 rejected under 35 U.S.C. 103(a) as being unpatentable over AHRWEILER as applied above, and further in view of PLOTZ (US 6,630,046 B1).

AHRWEILER is silent to comprising staple fibers and bicomponent fibers or further that the staple fibers are glass fibers and the bicomponent fibers comprise thermoplastic fibers.

PLOTZ which teaches wall and floor coverings base on a laminate carrier that includes a fiberglass mat and an organic synthetic nonwoven. (Col. 1, lines 7-10) The synthetic fibers can be staple fibers and teaches the use of bico fibers. (Col. 2, lines 31-37)

AHRWEILER discloses the claimed invention except that it is silent to the use of staple fibers and bicomponent fibers, PLOTZ shows that staple fibers and bicomponent fibers are structures known in the art of wall and floor coverings. Therefore, because these two references were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to use the claimed fibers in the construction of for example, carpets. It is the Examiner's interpretation that the product of AHRWEILER would comprise the claimed fibers once it uses the waste material from the surface coverings taught by PLOTZ.

7. Claim 20-21 rejected under 35 U.S.C. 103(a) as being unpatentable over AHRWEILER (US 5,456,872) as applied above, and further in view of MULLER et al. (US 5,554,830).

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MULLER et al. is directed to a noise-transmission-reducing covering that includes an insulating barrier layer 19 that is water-impermeable. (Refer to Col. 4, lines 58-64). Since both, references, are directed to surface covering materials, the purpose disclosed by MULLER et al. would have been recognized in the pertinent art of AHRWEILER.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the laminate material of AHRWEILER and provide with an insulating barrier layer with the motivation of protecting the laminate from damage by water that could affect the long term acoustic properties of the material as disclosed by MULLER et al. (Refer to Col. 4, lines 58-65)

***Allowable Subject Matter***

8. Claims 8 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 37 is allowed.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach a polymer fiber blanket of the present invention comprising a plurality of polymeric fibrous pieces thermally bonded together with the particular density claimed herein and further with a skin layer as defined in the presently claimed invention.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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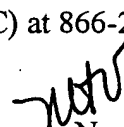
US 4,756,957

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Norca L. Torres-Velazquez  
Primary Examiner  
Art Unit 1771

May 9, 2006